

(2007) 07 DEL CK 0207
In the Delhi High Court
Case No : LPA 975 of 2006

Netaji Subhash Institute of Technology	APPELLANT
Vs	
Dilkush Bairwa	RESPONDENT

Date of Decision : 30-07-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B

Citation : (2007) 07 DEL CK 0207

Hon'ble Judges : Dr. M.K. Sharma, C.J.; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Avnish Ahlawat and Latika Chaudhary, for the Appellant; K.K. Tyagi, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against the order dated 29th March, 2006 passed by the learned Single Judge allowing the application bearing CM No. 3929/2004 filed by the respondent u/s 17B of the Industrial Disputes Act, 1947.

2. By the aforesaid order, the learned Single judge while allowing the said application u/s 17B of the Industrial Disputes Act, 1947 directed that the workman should be paid last known wages from the date of the award, which was passed on 6th February, 2002.

3. The appellant herein has filed the present appeal being aggrieved by the aforesaid order on the ground that the said order for payment of the last drawn wage should have been made from the date of the application and not from the date of the award.

4. Our attention is drawn to the decision of the Supreme Court in Regional Authority, Dena Bank and Another Vs. Ghanshyam, . In para 12 of the said judgment, it is stated by the Supreme Court in the following manner:

We have mentioned above that the import of Section 17B admits of no doubt

that Parliament intended that the workman should get the last-drawn wages from the date of the award till the challenge to the award is finally decided which is in accord with the Statement of Objects and Reasons of the Industrial Disputes (Amendment) Act, 1982 by which Section 17B was inserted in the Act. We have also pointed out above that Section 17B does not preclude the High Courts or this Court from granting better benefits - more just and equitable on the facts of a case than contemplated by that provision to a workman. By an interim order the High Court did not grant relief in terms of Section 17B, nay, there is no reference to that section in the orders of the High Court, Therefore, in this case the question of payment of "full wages last drawn" to the respondent does not arise. In the light of the above discussion the power of the High Court to pass the impugned order cannot but be upheld so the respondent is entitled to his salary in terms of the said order.

5. We have quoted the above paragraph as it clearly states that Parliament intended that the workman should get the last drawn wage or the minimum wage from the date of the award till the challenge to the award is not finally decided, which is in accordance with the statements of objects and reasons why Section 17B was inserted in the Act. In the said decision, it has also been held that Section 17B does not preclude the High Court and Supreme Court from granting better benefits, which are equitable and contemplated by the said provision. We are well aware that in some cases while allowing applications u/s 17B, the Court has directed for payment of minimum wages. There are two Full Bench decisions of this Court, wherein similar directions have been issued.

6. In the present case the Court has restricted its" order only for payment of the last drawn wages from the date of the award. The order and direction given is in terms with the decision of the Supreme Court in Dena Bank's case. At this stage, the learned Counsel for the appellant has drawn our attention to the decision of the Supreme Court in Uttaranchal Forest Development Corporation and Anr. v. K.B. Singh and Ors. (2005) 11 SCC 449. The said order is relied upon by the learned Counsel for the appellant in order to submit that the aforesaid benefit cannot be given from the date of the award but has to be from the date of the application as statement has to be made by the workman on an affidavit that he is unemployed.

7. We are however, unable to accept the aforesaid contention of the learned Counsel for the appellant for the simple reason that in para 12 of Dena Bank's case, the Supreme Court has held that the aforesaid last drawn wages should be paid from the date of the award.

8. It is pointed out to us by counsel for the respondent that the decision in Uttaranchal Forest Development Corporation and Anr. (supra) is still pending for consideration before the Supreme Court. The order is record of proceedings.

9. We find no reason to interfere with the impugned order. The appeal has no merit and the same is dismissed.

10. The amount deposited by the appellant was kept in a fixed deposit, shall now be paid to the respondent by the Registry. Balance amount, if any, shall be paid to the respondent within six weeks from today, failing which interest @ 9% per annum will be paid from the date of the order of the learned Single Judge.